



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/823,980	03/25/1997	AMY J. WEINER	CHIR-0108	8052

7590 12/29/2005

ALISA A. HARBIN, ESQ
CHIRON CORPORATION
INTELLECTUAL PROPERTY
4560 HORTON STREET
EMERYVILLE, CA 946082916

EXAMINER

SCHWADRON, RONALD B

ART UNIT	PAPER NUMBER
----------	--------------

1644

DATE MAILED: 12/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 08/823,980	Applicant(s) WEINER ET AL.	
	Examiner Ron Schwadron, Ph.D.	Art Unit 1644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 41-44,52,55 and 56 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 41-44,52,55,56 is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

1. Claims 41-44,52,55,56 are under consideration.
2. The rejection of claims 41-44,52 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 8,24,33,38 of U.S. Patent No. 6,630,298 for the reasons elaborated in the previous Office Action are withdrawn in view of applicants arguments.
3. The rejection of claims 41-44,52 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 5-8,11-21 of U.S. Patent No.6,632,601 for the reasons elaborated in the previous Office Action are withdrawn in view of applicants arguments.
4. The rejection of claims 41-44,52,55,56 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-4 of U.S. Patent No.6,797,809 for the reasons elaborated in the previous Office Action are withdrawn in view of the terminal disclaimer filed 10/3/2005.
5. The rejection of claims 41-44,52,55,56 as provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 8,12,31,44-58 of copending Application No. 10/643853 for the reasons elaborated in the previous Office Action are withdrawn in view of applicants arguments.
6. The rejection of claims 41-44,52,55,56 as provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 6-14,16,17,19,20,22-47 of copending Application No. 10/899715 for the reasons elaborated in the previous Office Action are withdrawn in view of applicants arguments.
7. The rejection of claims 41-44,52 as provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 15,16,31,32 of copending Application No. 10/658782 for the reasons elaborated in the previous Office Action are withdrawn in view of applicants arguments.

Art Unit: 1644

8. This application is in condition for allowance except for the following formal matters.

The abstract of the disclosure is objected to because it does not disclose the claimed invention (the peptide recited in the claims). Correction is required. See MPEP § 608.01(b).

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ron Schwadron, Ph.D. whose telephone number is 571 272-0851. The examiner can normally be reached Monday through Thursday from 7:30am to 6:00pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan, can be reached at 571 272-0841. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



RONALD B. SCHWADRON
PRIMARY EXAMINER
GROUP 1800 (600)

Ron Schwadron, Ph.D.
Primary Examiner
Art Unit 1644